

COPY

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July 14

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SEP 22 1998

CONCORD, N.H.

Mr. Stuart B. Wilkins
Business Manager
Division of Business Management
17 Capitol Street
Concord, New Hampshire

Dear Sir:

You have this date invited my attention to section 3 of House Bill No. 529 now pending in the Legislature. You make specific reference to the following sentence appearing on page 96 of the cited House Bill:

"No funds whother appropriated by the so-called budget acts or otherwise available shall be used for the filling of vacated positions within the state classified service until authorized by the Governor after appropriate study and investigation as to their necessity."

You advise that you propose tomorrow to commence proceedings, under the Personnel Act and rules and regulations made pursuant thereto, for the removal of a classified employee in your Department; as a result of it you expect that there will be a vacancy on or before July 29, 1955. You further state that the position to be vacated is a very important one requiring immediate replacement. You ask whether, in view of the legislation herein described you may proceed under the Personnel rules to fill the vacancy when it shall occur.

You are advised that House Bill No. 529 has at the present time no force or effect whatsoever. This condition will obtain until the bill is approved, if it shall be, by the Governor. At any time before such approval you may, then, proceed to fill any vacancy in the classified service without regard to the House Bill or to the language from it quoted above. However, if the House Bill shall become law prior to the actual filling of the vacancy, the quoted language will control and you will be precluded from proceeding further toward providing a replacement. And this is true even though you may have by that time accepted all or most all of the acts necessary to fill the vacancy.

Very truly yours,

Warren E. Waters
Deputy Attorney General

WEW/T